

insert
3-15
to the Eng
bill

Section #. 20.435 (6) (hx) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the schedule for services related to drivers. All moneys received by the state treasurer from the driver improvement surcharge on court fines and forfeitures authorized under s. 346.655 and all moneys transferred from the appropriation account under s. 20.395 (5) (di) shall be credited to this appropriation. Any unencumbered moneys in this appropriation account may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5) (ci) and (di) and 20.455 (5) (h) by the secretary of administration after consultation with the secretaries of health and family services and transportation, the superintendent of public instruction, the attorney general and the president of the university of Wisconsin system.

~~History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112, 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9.~~

The secretary of administration shall annually transfer to the appropriation account under s. 20.395 (5) (ek) 3.76% of all moneys credited to this appropriation from the driver improvement surcharge.

nilsepe(lrbunx13)

(end insert)

Mon-Mar-6-2000 11:57 am

inset
4-22
to the Eng bill

(5) Requiring ignition interlock device providers^s
to notify the department of any ignition interlock device
tampering, circumvention ^{or bypass} or violation resets,
~~installing an ignition interlock device~~
Upon receiving notice described in
this subsection, the
department shall
immediately provide the
notice and data to the ~~the~~ provider^r
that is administering the violator's driver
safety plan.

including ^{all} relevant data
recorded in the ^{device's} memory.

(end inset)

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0372/Plins
PEN, RPN & JEO.....

1 insert 3-18:

2 **SECTION 1.** 85.53 (1) (d) of the statutes is amended to read:

3 85.53 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1),
4 (2g) or (2m) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),
5 940.09 (1) or 940.25.

6 History: 1997 a. 27; 1999 a. 9.

7
8 insert 9-9:

9 **SECTION 2.** 343.10 (5) (a) 3. of the statutes is repealed.

10 **SECTION 3.** 343.10 (5) (b) of the statutes is amended to read:

11 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
12 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b), (eg) and (em),
13 343.31 (3m), 343.32 (1m), 767.303 and 961.50.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 261, 269, 401, 436, 448; 1997 a. 35, 84, 237.

14 **SECTION 4.** 343.10 (7) (cm) of the statutes is repealed.

15 **SECTION 5.** 343.30 (1p) of the statutes is renumbered 343.30 (1p) (a).

16 **SECTION 6.** 343.30 (1p) (b) of the statutes is created to read:

17 343.30 (1p) (b) Notwithstanding sub. (1), a court shall suspend the operating
18 privilege of a person for 6 months upon the person's conviction by the court for
19 violation of s. 346.63 (2g) or a local ordinance in conformity with s. 346.63 (2g). If
20 there was a minor passenger under 16 years of age in the motor vehicle at the time
21 of the violation that gave rise to the conviction under s. 346.63 (2g) or a local

ordinance in conformity with s. 346.63 (2g), the court shall suspend the operating privilege of the person for 12 months.

SECTION 7. 343.30 (1q) (h) of the statutes is amended to read:

343.30 (1q) (h) The court or department shall provide that the period of suspension or revocation imposed under this subsection shall be reduced by any period of suspension or revocation previously served under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1), (2g) or (2m) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on a suspension or revocation imposed under s. 343.305 arising out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

insert 9-18:

SECTION 8. 343.301 of the statutes is created to read:

343.301 Installation of ignition interlock device or immobilization of a motor vehicle. (1) ^{B?}IGNITION INTERLOCK^{AD} (a) If a person is convicted of improperly refusing to take a test under s. 343.305 or violating^{S.} 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has one or more prior suspensions, revocations or convictions that would be counted under s. 343.307 (1), the court may order that the person's operating privilege for the operation of "Class D" ~~motor~~ vehicles be restricted to operating "Class D" ~~motor~~ vehicles that are equipped with an ignition interlock device.

1 (b) The court may restrict the operating privilege restriction under par. (a) for
2 a period of not less than one year ~~and not~~ ^{nor} more than the maximum operating
3 privilege revocation period permitted under s. 343.31 (3) (c). ✓

4 (c) If the court restricts the person's operating privilege under par. (a), the
5 person shall be liable for the reasonable cost of equipping and maintaining any
6 ignition interlock device installed in his or her motor vehicle. ✓

7 (d) A person to whom a restriction under this subsection applies violates that
8 restriction if he or she requests or permits another to blow into an ignition interlock
9 device or to start a motor vehicle equipped with an ignition interlock device for the
10 purpose of providing the person an operable motor vehicle without the necessity of
11 first submitting a sample of his or her breath to analysis by the ignition interlock
12 device. ✓

13 (2) IMMOBILIZATION. (a) If a person is convicted of violating ^{s.} 346.63 (1) or (2),
14 940.09 (1) or 940.25, and the person has one or more prior suspensions, revocations
15 or convictions that would be counted under s. 343.307 (1), the court may order that
16 the motor vehicle used during the violation and owned by the person be immobilized. ✓

17 (b) The court may order the immobilization under par. (a) for a period of not
18 less than one year ~~and not~~ ^{nor} more than the maximum operating privilege revocation
19 period permitted under s. 343.31 (3) (c). ✓

20 (c) If the court orders that the person's motor vehicle be immobilized, the person
21 shall be liable for the reasonable cost of equipping and maintaining any
22 immobilization device installed on his or her motor vehicle. ✓

23 (d) The court shall notify the department, in a form and manner prescribed by
24 the department, that an order to immobilize a motor vehicle has been entered. The
25 registration records of the department shall reflect that the order has been entered

① against the ^{motor} vehicle and remains unexecuted. Any law enforcement officer may
2 execute that order based on the information provided by the department. The law
3 enforcement agency shall notify the department when an order has been executed
④ under this ^{paragraph} subdivision and the department shall amend its vehicle registration
5 records to reflect that notification.

⑥ (e) Within 10 days after immobilizing a [✓] motor vehicle under par. (a), the law
7 enforcement agency that immobilized the vehicle shall provide notice of the
8 immobilization by certified mail to the owner of the motor vehicle and to all
⑨ lienholders of record. The notice shall set forth the year, make, model and ^{serial} ~~serial~~
⑩ ^{vehicle identification} number of the motor vehicle, where the motor vehicle is located and the reason for
11 the immobilization.

12 **SECTION 9.** 343.303 of the statutes is amended to read:

13 **343.303 Preliminary breath screening test.** If a law enforcement officer
14 has probable cause to believe that the person is violating or has violated s. 346.63 (1),
15 [✓] (2g) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or
16 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer
17 detects any presence of alcohol, a controlled substance, controlled substance analog
18 or other drug, or a combination thereof, on a person driving or operating or on duty
19 time with respect to a commercial motor vehicle or has reason to believe that the
20 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity
21 therewith, the officer, prior to an arrest, may request the person to provide a sample
22 of his or her breath for a preliminary breath screening test using a device approved
23 by the department for this purpose. The result of this preliminary breath screening
24 test may be used by the law enforcement officer for the purpose of deciding whether
25 or not the person shall be arrested for a violation of s. 346.63 (1), [✓] (2g), (2m), (5) or (7)

1 or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09 (1) or
2 940.25 and whether or not to require or request chemical tests as authorized under
3 s. 343.305 (3). The result of the preliminary breath screening test shall not be
4 admissible in any action or proceeding except to show probable cause for an arrest,
5 if the arrest is challenged, or to prove that a chemical test was properly required or
6 requested of a person under s. 343.305 (3). Following the screening test, additional
7 tests may be required or requested of the driver under s. 343.305 (3). The general
8 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary
9 breath screening test.

History: 1981 c. 20; 1985 a. 32 s. 3; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1991 a. 277; 1995 a. 448.

10 **SECTION 10.** 343.305 (3) (a) of the statutes is amended to read:

11 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2g), (2m)
12 or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2)
13 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law
14 enforcement officer may request the person to provide one or more samples of his or
15 her breath, blood or urine for the purpose specified under sub. (2). Compliance with
16 a request for one type of sample does not bar a subsequent request for a different type
17 of sample.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

18 **SECTION 11.** 343.305 (3) (b) of the statutes is amended to read:

19 343.305 (3) (b) A person who is unconscious or otherwise not capable of
20 withdrawing consent is presumed not to have withdrawn consent under this
21 subsection, and if a law enforcement officer has probable cause to believe that the
22 person has violated s. 346.63 (1), (2g), (2m) or (5) or a local ordinance in conformity
23 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the
24 use of a vehicle, or detects any presence of alcohol, controlled substance, controlled

1 substance analog or other drug, or a combination thereof, on a person driving or
2 operating or on duty time with respect to a commercial motor vehicle or has reason
3 to believe the person has violated s. 346.63 (7), one or more samples specified in par.
4 (a) or (am) may be administered to the person.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

5 **SECTION 12.** 343.305 (5) (b) of the statutes is amended to read:

6 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation
7 of s. 346.63 (1), (2), (2g), (2m), (5) or (6) or 940.25, or s. 940.09 where the offense
8 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2g),
9 (2m) or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity
10 of alcohol, a controlled substance, a controlled substance analog or any other drug,
11 or any combination of alcohol, controlled substance, controlled substance analog and
12 any other drug in the blood only by a physician, registered nurse, medical
13 technologist, physician assistant or person acting under the direction of a physician.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

14 **SECTION 13.** 343.305 (9) (a) 1. of the statutes is amended to read:

15 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed
16 the person under arrest for a violation of s. 346.63 (1), (2g), (2m) or (5) or a local
17 ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

18 **SECTION 14.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

19 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the
20 person was driving or operating a motor vehicle while under the influence of alcohol,
21 a controlled substance or a controlled substance analog or any combination of
22 alcohol, a controlled substance and a controlled substance analog, under the
23 influence of any other drug to a degree which renders the person incapable of safely

1 driving, or under the combined influence of alcohol and any other drug to a degree
2 which renders the person incapable of safely driving or having a prohibited alcohol
3 concentration or, if the person was driving or operating a commercial motor vehicle,
4 an alcohol concentration of 0.04 or more and whether the person was lawfully placed
5 under arrest for violation of s. 346.63 (1), (2g) (2m) or (5) or a local ordinance in
6 conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

7 **SECTION 15.** 343.305 (9) (d) of the statutes is amended to read:

8 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court
9 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined
10 adversely to the person, the court shall proceed under sub. (10). If one or more of the
11 issues is determined favorably to the person, the court shall order that no action be
12 taken on the operating privilege on account of the person's refusal to take the test in
13 question. This section does not preclude the prosecution of the person for violation
14 of s. 346.63 (1), (2g) (2m), (5) or (7) or a local ordinance in conformity therewith, or
15 s. 346.63 (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

16 **SECTION 16.** 343.305 (10) (eg) of the statutes is created to read:

17 343.305 (10) (eg) One penalty for improperly refusing to submit to a test for
18 intoxication regarding a person ^{stat} arrested for [✓] violation of s. 346.63 (2g) or a local
19 ordinance in conformity therewith is revocation of the person's operating privilege
20 for 12 months. If there was a minor passenger under 16 years of age in the motor
21 vehicle at the time of the incident that gave rise to the improper refusal, the
22 revocation period is 24 months. After the first 15 days of the revocation period, the
23 person is eligible for an occupational license under s. 343.10. Any such improper

1 refusal or revocation for the refusal does not count as a prior refusal or a prior
2 revocation under this section or s. 343.307. The person shall not be required to
3 submit to and comply with any assessment or driver safety plan under pars. (c) and
4 (d).

5 SECTION 17. 343.305 (10m) of the statutes is amended to read:

6 343.305 (10m) REFUSALS; SEIZURE; IMMOBILIZATION OR IGNITION INTERLOCK OF A
7 MOTOR VEHICLE. If the person whose operating privilege is revoked under sub. (10)
8 has 2 one or more prior convictions, suspensions or revocations, as counted under s.
9 343.307 (1), the procedure under s. ~~346.65 (6)~~ 343.301 shall be followed regarding if
10 the court orders the immobilization or seizure and forfeiture of a motor vehicle owned
11 by the person or the equipping of a motor vehicle owned by the person with an
12 ignition interlock device.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9.

13 SECTION 18. 344.576 (2) (b) of the statutes is amended to read:

14 344.576 (2) (b) The damage occurs while the renter or authorized driver
15 operates the private passenger vehicle in this state while under the influence of an
16 intoxicant or other drug, as described under s. 346.63 (1) (a) or (b), (2g) or (2m).

History: 1989 a. 328; 1995 a. 27.

17 SECTION 19. 346.63 (2g) of the statutes is created to read:

18 346.63 (2g) (a) No person who has 3 or more prior suspensions, revocations of
19 convictions that would be counted under s. 343.307 (1) may drive or operate a motor
20 vehicle while he or she has an alcohol concentration of more than 0.0 but less than
21 0.08. Upon convicting a person of violating this subsection, the court may suspend the person's
22 privilege under s. 343.30 (1p) (b). The person is eligible for an occupational license
23 under s. 343.10 at any time. If a person arrested for a violation of this subsection
24 refuses to take a test under s. 343.305, the refusal is a separate violation and the

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text goes on the next page. →

insert
9-1 V.
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(N019) The clerk of the court in which
the conviction occurred shall forward the
record of conviction under this paragraph
to the department. Upon receiving a record
of conviction under this paragraph, the department
shall immediately provide notice of the conviction
to the ~~design~~ provider that is administering
the violator's driver safety plan.

(end insert)

1 person is subject to revocation of the person's operating privilege under s. 343.305
2 (10) (eg).

3 (b) Notwithstanding s. 349.02, a law enforcement officer may not stop or
4 inspect a vehicle solely to determine compliance with this subsection or par. (a) or a
5 local ordinance in conformity with this subsection, or rules of the department. This
6 paragraph does not limit the authority of a law enforcement officer to issue a citation
7 for a violation of this subsection or a local ordinance in conformity with this
8 subsection, or rules of the department observed in the course of a stop or inspection
9 made for other purposes.

10 SECTION 20. 346.63 (2m) of the statutes is amended to read:

11 346.63 (2m) If a person has not attained the legal drinking age, as defined in
12 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
13 has an alcohol concentration of more than 0.0 but not more than 0.1. One penalty
14 for violation of this subsection is suspension of a person's operating privilege under
15 s. 343.30 (1p) (a). The person is eligible for an occupational license under s. 343.10
16 at any time. If a person arrested for a violation of this subsection refuses to take a
17 test under s. 343.305, the refusal is a separate violation and the person is subject to
18 revocation of the person's operating privilege under s. 343.305 (10) (em).

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252.

19
20 insert 13-24:

21 SECTION 21. 346.65 (2m) (b) of the statutes is amended to read:

22 346.65 (2m) (b) The court shall consider a report submitted under s. 85.53 (2)
23 (d) when imposing a sentence under sub. (2), (2n), (2q) or (3m).

History: 1971 c. 278; 1973 c. 318; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 308, 309; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; s. 13.93 (2) (c).

1 **SECTION 22.** 346.65 (2n) of the statutes is created to read:

2 346.65 (2n) Any person violating s. 346.63 (2g) shall forfeit not more than \$250.

3 If there was a minor passenger under 16 years of age in the motor vehicle at the time
4 of the violation that gave rise to the conviction under 346.63 (2^g), the forfeiture is
5 doubled.

6
7 insert 15-19:

8 **SECTION 23.** 346.65 (6) (a) 3. of the statutes is amended to read:

9 346.65 (6) (a) 3. The court shall notify the department, in a form and manner
10 prescribed by the department, that an order to equip a motor vehicle with an ignition
11 interlock device, to immobilize a motor vehicle or to seize a motor vehicle has been
12 entered. The registration records of the department shall reflect that the order has
13 been entered against the vehicle and remains unexecuted. Any law enforcement
14 officer may execute that order and shall transfer any motor vehicle ordered seized
15 to the law enforcement agency that was originally ordered to seize the vehicle based
16 on the information provided by the department. The law enforcement agency shall
17 notify the department when an order has been executed under this subdivision and
18 the department shall amend its vehicle registration records to reflect that
19 notification.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; s. 13.93 (2) (c).

20 **SECTION 24.** 346.65 (6) (b) of the statutes is amended to read:

21 346.65 (6) (b) Within 10 days after seizing or immobilizing a motor vehicle
22 under par. (a), the law enforcement agency that seized or immobilized the vehicle
23 shall provide notice of the seizure or immobilization by certified mail to the owner
24 of the motor vehicle and to all lienholders of record. The notice shall set forth the

1 year, make, model and serial number of the motor vehicle,
2 is located, the reason for the seizure ~~or immobilization~~, and the forfeiture procedure
3 if the vehicle was seized. When a motor vehicle is seized under this section, the law
4 enforcement agency that seized the vehicle shall place the motor vehicle in a secure
5 place subject to the order of the court.

6 History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; s. 13.93 (2) (c).

7 insert 18-2:

8 **SECTION 25.** 347.413 (1) of the statutes is amended to read:

9 347.413 (1) No person may remove, disconnect, tamper with or otherwise
10 circumvent the operation of an ignition interlock device installed in response to the
11 court order under s. ~~346.65 (6)~~ 343.301 (1). This subsection does not apply to the
12 removal of an ignition interlock device upon the expiration of the order requiring the
13 motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
14 interlock device by a person authorized by the department.

15 History: 1991 a. 277; 1993 a. 213.

15 **SECTION 26.** 347.413 (2) of the statutes is repealed.

16 **SECTION 27.** 347.413 (3) of the statutes is amended to read:

17 347.413 (3) The department shall design a warning label which shall be affixed
18 to each ignition interlock device upon installation. The label shall provide notice of
19 the penalties for tampering with or circumventing the operation of the ignition
20 interlock device under sub. (1) and ~~s. 343.10 (5) (a) 3.~~

21 **SECTION 28.** 347.417 (1) of the statutes is amended to read:

22 347.417 (1) No person may remove, disconnect, tamper with or otherwise
23 circumvent the operation of any immobilization device installed in response to a
24 court order under s. ~~346.65 (6)~~ 343.301 (2). This subsection does not apply to the

1 removal of an immobilization device pursuant to a court order or to necessary repairs
2 to a malfunctioning immobilization device.

History: 1991 a. 277.

History: 1991 a. 277; 1993 a. 213.

3 **SECTION 29.** 347.417 (2) of the statutes is amended to read:

4 347.417 (2) The department shall design a warning label which shall be affixed
5 by the owner of each immobilization device before the device is used to immobilize
6 any motor vehicle under s. ~~346.65 (6)~~ 343.301 (2). The label shall provide notice of
7 the penalties for removing, disconnecting, tampering with or otherwise
8 circumventing the operation of the immobilization device.

History: 1991 a. 277.

9 **SECTION 30.** 349.03 (2m) of the statutes is amended to read:

10 349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license
11 for a violation of a local ordinance in conformity with s. 346.63 (1), (2g) or (2m).

History: 1971 c. 234, 277; 1973 c. 86, 87, 336; 1979 c. 59; 1981 c. 20, 165; 1983 a. 535; 1985 a. 194; 1987 a. 3, 27; 1989 a. 105; 1993 a. 113.

12 **SECTION 31.** 349.06 (1m) of the statutes is amended to read:

13 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license
14 for a violation of a local ordinance in conformity with s. 346.63 (1), (2g) or (2m).

History: 1971 c. 277, 278, 307; 1973 c. 336; 1975 c. 248; 1981 c. 20; 1987 a. 3, 27; 1993 a. 198, 256; 1995 a. 44; 1997 a. 190, 277.

15

16 insert 18-3:

17 **SECTION 32.** 885.235 (1m) of the statutes is amended to read:

18 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2g),
19 (2m) or (7) or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood
20 at the time in question, as shown by chemical analysis of a sample of the person's
21 blood or urine or evidence of the amount of alcohol in the person's breath, is
22 admissible on the issue of whether he or she had an alcohol concentration in the
23 range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2g) or (2m) or 350.101

1 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was
2 taken within 3 hours after the event to be proved. The fact that the analysis shows
3 that the person had an alcohol concentration of more than 0.0 but not more than 0.1
4 is prima facie evidence that the person had an alcohol concentration in the range
5 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2g) or (2m) or 350.101 (1) (c)
6 or an alcohol concentration above 0.0 under s. 346.63 (7).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198.

7 **SECTION 33.** 885.235 (4) of the statutes is amended to read:

8 885.235 (4) The provisions of this section relating to the admissibility of
9 chemical tests for alcohol concentration or intoxication shall not be construed as
10 limiting the introduction of any other competent evidence bearing on the question
11 of whether or not a person was under the influence of an intoxicant, had a specified
12 alcohol concentration or had an alcohol concentration in the range specified in s.
13 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2g) or (2m) or 350.101 (1) (c).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198.

14
15 insert 19-13:

16 **SECTION 34.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and
17 amended to read:

18 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
19 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
20 under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may~~ shall be followed
21 ~~regarding the immobilization or if the court orders the~~ seizure and forfeiture of a
22 motor vehicle owned by the person who committed the offense ~~or the equipping of a~~
23 ~~motor vehicle owned by the person with an ignition interlock device.~~

1 ~~NOTE: NOTE: Sub. (1d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~
History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237,
295, 338; 13.93 (2) (c).

3 insert 20-10:

4 SECTION 35. 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and
5 amended to read:

6 940.25 (1d) (b) If the person who committed the offense under sub. (1) (a), (b),
7 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
8 under s. 343.307 (1), the procedure under s. 346.65 (6) may shall be followed
9 regarding ~~the immobilization or if the court orders the~~ seizure and forfeiture of a
10 motor vehicle owned by the person who committed the offense ~~or the equipping of a~~
11 ~~motor vehicle owned by the person with an ignition interlock device.~~

~~NOTE: NOTE: Sub. (1d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~
History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 450; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237,
295; s. 13.93 (2) (c).

12 SECTION 36. 940.25 (1d) (a) of the statutes is created to read:

13 940.25 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c)
14 or (d) has ~~one~~ ^{one} or more prior convictions, suspensions or revocations, as counted under
15 s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the
16 the equipping of a motor vehicle owned by the person with an ignition interlock
17 device or the immobilization of the motor vehicle.

19 insert 21-6:

20 *nonstat:* (2) The department of transportation ^{and the department of health and family services} shall ^{jointly} study and evaluate the
21 ~~effectiveness of using ignition interlock devices and vehicle immobilization as~~
22 ~~methods of reducing the prevalence of drunk driving and the recidivism of drunk~~
23 ~~driving offenders. The department shall consult with the department of health and~~
24 ~~family services, the counties, law enforcement agencies, the courts and the providers~~
the

1 of services to alcohol abusers regarding this study and evaluation. No later than the
2 first day of the 24th month beginning after the effective date of section 343.301 of the
3 statutes, as created in this act, the department shall submit a report to the
4 legislature in the manner provided under section 13.172 (2) of the statutes that
5 contains the conclusions of the department's study and evaluation and any
6 recommendations concerning implementation of the conclusions.

7
8 insert 22-12:

9 **SECTION 37. Effective dates.** This act takes effect on January 1, 2001,
10 except as follows:

11 (1) The treatment of sections 110.10 (10) of the statutes takes effect on October
12 1, 2000.

13 (2) The treatment of sections 343.10 (5) (a) 3. and (b), 343.301, 343.305 (10m),
14 346.65 (6) (a) 1., 2., 2m. and 3., (b) and (d), 347.413 (1), (2) and (3), 347.417 (1) and
15 (2), 940.09 (1d) (a) and (b) and 940.25 (1d) (a) and (b) of the statutes takes effect on
16 January 1, 2002.

17 (3) The treatment of sections 346.65 (6) (c) of the statutes takes effect on the first
18 day of the 2nd month beginning after publication.

19

SECTION 37
and
auto ref
"KA"
auto ref
"KB"

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0372/P1newin
PEN.....

NEW INSERT 5-21:

SECTION 1. 125.07 (4) (bs) 3. and 4. of the statutes, as affected by 1997 Wisconsin Act 84, are amended to read:

125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition, the person is subject to either a forfeiture of not less than \$500 nor more than \$750, ^{plain} ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

4. For a violation committed within 12 months of 3 or more previous violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition, the person is subject to either a forfeiture of not less than \$750 nor more than \$1,000, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337.

NEW INSERT 6-19:

SECTION 2. 125.07 (4) (c) 3. and 4. of the statutes, as affected by 1997 Wisconsin Act 84, are amended to read:

125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition, the person is subject to either a forfeiture of not less than \$300 nor more than \$500, ~~suspension of the person's operating privilege under s. 343.30 (6)~~

(b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

4. For a violation committed within 12 months of 3 or more previous violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition, the person is subject to either a forfeiture of not less than \$500 nor more than \$1,000, suspension of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337.

NEW INSERT 9-14

SECTION 3. 343.30 (6) (b) (intro.) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

343.30 (6) (b) (intro.) If a court imposes suspension of a person's operating privilege under s. 125.07 (4) (bs) or (c) or 938.344 (2), (2b) or (2d), the suspension imposed shall be one of the following:

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

SECTION 4. 343.30 (6) (b) 1. and 2. of the statutes are amended to read:

NEW INSERT 9-16

SECTION 5. 343.30 (6) (b) 3. of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

343.30 (6) (b) 3. For a violation committed within 12 months of 2 or more previous violations, suspension for not ~~more~~ less than 2 years nor more than 5 years.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

NEW INSERT 18-25:

SECTION 6. 938.344 (2b) (c) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

938.344 (2b) (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500, ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition to any penalty imposed under this paragraph, the court shall suspend the juvenile's operating privilege as provided in s. 343.30 (6) (b) 3.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263.

Compiled from: *b0310/1.24*

Current Draft: LRBs0095/1

(7g) **RULES FOR URBAN STORM WATER LOAN PROGRAM.** The department of natural resources shall submit in proposed form the rules required under section ~~281.395(12)~~ of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than February 1, 2000, and shall promulgate the rules no later than December 31, 2000, unless action by the legislature under chapter 227 of the statutes prevents the department from meeting this deadline.

1

110.07(3)

885.235(1m)

343.305(8)(c)1.

349.03(4)

In sent 29-2'

346.63 x-ref

Check on

ASSEMBLY BILL 465

1 paragraph, or a local ordinance in conformity with this paragraph, the court shall
2 review the record and consider the following:

3 **SECTION 169.** 344.48 (2) of the statutes, as affected by 1997 Wisconsin Act 283,
4 is amended to read:

5 344.48 (2) Any person violating this section may be fined not more than \$1,000
6 \$10,000 or imprisoned for not more than 2 years 9 months or both.

7 **SECTION 170.** 346.04 (2t) of the statutes is created to read:

8 346.04 (2t) No operator of a vehicle, after having received a visible or audible
9 signal to stop his or her vehicle from a traffic officer or marked police vehicle, shall
10 knowingly resist the traffic officer by failing to stop his or her vehicle as promptly as
11 safety reasonably permits.

12 **SECTION 171.** 346.04 (4) of the statutes is created to read:

13 346.04 (4) Subsection (2t) is not an included offense of sub. (3), but a person may
14 not be convicted of violating both subs. (2t) and (3) for acts arising out of the same
15 incident or occurrence.

16 **SECTION 172.** 346.17 (2t) of the statutes is created to read:

17 346.17 (2t) Any person violating s. 346.04 (2t) may be fined not more than
18 \$10,000 or imprisoned for not more than 9 months or both.

19 **SECTION 173.** 346.17 (3) (a) of the statutes, as affected by 1997 Wisconsin Act
20 283, is amended to read:

21 346.17 (3) (a) Except as provided in par. (b), (c) or (d), any person violating s.
22 346.04 (3) ~~shall be fined not less than \$600 nor more than \$10,000 and may be~~
23 ~~imprisoned for not more than 3 years~~ is guilty of a Class I felony.

24 **SECTION 174.** 346.17 (3) (b) of the statutes, as affected by 1997 Wisconsin Act
25 283, is amended to read:

Nelson, Robert P.

From: Sobotik, John
Sent: Wednesday, March 08, 2000 6:57 PM
To: Nelson, Robert P.
Subject: AB221 Meeting

Bob:

This is how I see that OWI counting scheme they asked for in the meeting today working:

The basic idea they have is that a person should be able to clean his driver record at some point. So, to accomplish that, if a driver has 3 drunk driving offenses in a 10 year period, he/she will have them on his/her record for life. If they only have 2 within 10 years of each other, and then go another 10 years without a third, then both offenses go away. If they keep having one every 10 years, they all keep adding up until he gets a 10 year period clean at some point, and then all the priors "go away."

Here is the scenario we discussed and that they all agreed would happen and be "ok."

Guy #1	Guy #2
1/1/1990 OWI (1st)	1/1/1990 OWI (1st)
12/31/1999 OWI (2nd)	1/2/1990 OWI (2nd)
12/30/2009 OWI (3rd)	2/1/2000 OWI (1st)
	2/2/2000 OWI (2nd)
3/1/2010 OWI (4th)	3/1/2010 OWI (1st)

Guy #1 above drives drunk 3 times before being arrested on 3/1/2010 and gets 4th offense OWI penalties (60 days to 2 years imprisonment + \$600 - \$4000 fine + vehicle seizure). Guy #2 drives drunk 4 times over the same time period, is arrested on 3/1/2010, and gets a civil forfeiture for 1st offense OWI. (Ticket for \$150-300).

I would not be surprised if this scheme violates the equal protection clause of the constitution. The 14th amendment commands that no person shall be denied equal protection of the law by any state. It guarantees that individuals be treated in a similar manner as others. It governs all governmental actions that classify people for different benefits or burdens under the law. In general, when legislatures discriminate against groups of people, that discrimination must have a logical nexus to the purpose of the legislation.

If the purpose of this legislation is to restrict or control repeat drunk driving, on what basis can Guy #2 above get a lesser penalty than Guy #1? There is no logical nexus that I can discern.

--

Other point: I noticed that you have the 0.0 stuff in 346.63, Stats. We need to make absolutely sure that the 0.0 offense is NOT a lesser included offense of drunk driving. I would URGE you to take it OUT of 346.63 and 346.65, give it a separate section with a separate penalty and explicitly provide that it is not a lesser included offense of OWI. Otherwise, every repeater case will go to trial because every lawyer in the state will be trying to get the jury to split the baby and give the prosecutor 1/2 an OWI conviction.

Also, you really don't want the "but not above .08" language. If he/she is above 0.0 it is a violation. That language does nothing but create a reasonable doubt when you are near the .08 line. It helps nothing. If the guy blows .15, he is just as guilty of being over 0.0 as the guy who blows .04.

That language should be cleaned up throughout the existing statute. At a minimum, don't create any more sections with that language.

I will <TRY> to look at your draft tomorrow. I am tired (7:00 and still not home)

- John

Nelson, Robert P.

From: Sobotik, John
Sent: Wednesday, March 08, 2000 7:04 PM
To: Nelson, Robert P.
Subject: FW: AB221 Meeting

Oh yeah, I forgot. IF the offense is a felony OWI offense (940.09 or 940.25, it counts forever, regardless of the other rules). What does that do to the system??

John Sobotik
Assistant General Counsel
Wisconsin Dept. of Transportation
4802 Sheboygan Ave. Rm 115B
P.O. Box 7910
Madison WI 53707-7910
Ph: (608) 267-9320
Fx: (608) 267-6734

> -----Original Message-----

> From: Sobotik, John
> Sent: Wednesday, March 08, 2000 6:57 PM
> To: Nelson, Robert P.
> Subject: AB221 Meeting

>
>

> Bob:

>

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> the meeting today working:

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> The basic idea they have is that a person should be able to
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> So, to accomplish that, if a driver has 3 drunk driving
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> Guy #1	Guy #2
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>	
> 12/31/1999 OWI (2nd)	1/2/1990 OWI (2nd)
>	
> 12/30/2009 OWI (3rd)	2/1/2000 OWI (1st)
>	
>	2/2/2000 OWI (2nd)
>	

> 3/1/2010 OWI (4th)	3/1/2010 OWI (1st)
----------------------	--------------------

>

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> 3/1/2010 and gets 4th offense OWI penalties (60 days to 2
> years imprisonment + \$600 - \$4000 fine + vehicle seizure).
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> governmental actions that classify people for different
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>
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>
> --
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> 346.63, Stats. We need to make absolutely sure that the 0.0
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> separate section with a separate penalty and explicitly
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> I will <TRY> to look at your draft tomorrow. I am tired
> (7:00 and still not home)
>
> - John
>
>
> -----
> John Sobotik
> Assistant General Counsel
> Wisconsin Dept. of Transportation
> 4802 Sheboygan Ave. Rm 115B
> P.O. Box 7910
> Madison WI 53707-7910
> Ph: (608) 267-9320
> Fx: (608) 267-6734
>

3rd or subsequent dev.

— 0.15 goes to 0.17

— Hold - changes in 346-65 (2)(b)
\$350-1100 maybe to inc. max

— keep I/O ~~optimal~~ optimal after
1st offense (on 2nd off)

I/O — may maximum ^{revocation} up
to max of 2 offense

— 3. offenses in 10 years —

count forever

10 clean
years

every 10 years, 10

can ~~for~~ remove records

for before 10 years.

Plus OTH —

~~offenses~~ ~~10 years~~

(Clean any record of any
offense before 10 years)

Clear 10 years, then expunge all
before that 10 years

rolling
of 10 year
period
Not

Assembly Bill 221
Senate Amendment

3rd offense

- YES* ✓
- A. Increased penalties for repeat offenders at following BAC levels:
.170 - .199 doubled; .20 - .249 tripled; and .250 and above
quadrupled. *24, 10% ↑*
- B. Fines for second offense higher than current law, but not as severe
as 3 or more offenses. *\$350 - \$1100*
- C. Ignition interlock at judicial discretion for repeat offender - seizure
of car after third offense. *YES*
- D. Add Representative Ott's bill - 10 year lookback. *clear if nothing wrong
permanent if 4th yr*
- PEN* ✓
- E. Underage violations not committed in a car do not have drivers
license penalties. *Agg Trans -
bomb scares*
- F. SafeRide Grants may be awarded to non-profit organizations, as
well as to a county or city.
- G. Use Senate bill as vehicle.

Nelson, Robert P.

From: Rossmiller, Dan
Sent: Tuesday, March 07, 2000 5:16 PM
To: Sobotik, John; Prentiss, Mike; Nelson, Robert P.; Sklansky, Ron
Cc: 'kmcadowel@aol.com'; 'scottstenger@earthlink.net'
Subject: RE: Meeting on OWI Legislation

I have reserved Room 222 South, State Capitol for a 1:00 pm meeting to discuss additional revisions to the OWI legislation (AB 221/SB 125). The Assembly meets at 2:00 so we will try to get right to business. I hope to see you there.

Dan Rossmiller
Chief of Staff
Office of Seantor Gary R. George

03/08/2000



*Senator Gary R. George
State of Wisconsin
Sixth Senate District*

118 South, State Capitol Building
P. O. Box 7882
Madison, WI 53707-7882
(608) 266-2500

4011 W. Capitol Drive
Milwaukee, WI 53216
(414) 445-9436
(800) 362-9472

Facsimile Cover Sheet

Please deliver to the individual named below.

To: Bob Nelson, Legislative Reference Bureau

Phone: (608) 266-7511

Fax: (608) 264-5648

From: Dan Rossmiller, Chief of Staff

Number of pages: 2, including cover sheet

Message: Per our phone conversation. Here is the information on the expected OWI legislation consensus. Please call me (6-2500) if you have any questions. Thank you.

1999 ASSEMBLY BILL 665

January 19, 2000 – Introduced by Representatives OTT, STONE, BRANDEMUEHL, AINSWORTH, HUNDERTMARK, HUTCHISON, KESTELL, KLUSMAN, KREIBICH, LADWIG, MONTGOMERY, SPILLNER and VRAKAS, cosponsored by Senators DRZEWIECKI, DARLING and ROSENZWEIG. Referred to Committee on Highway Safety.

- 1 **AN ACT to amend** 343.30 (1q) (b) 3., 343.305 (10) (b) 3., 343.31 (3) (bm) 3., 346.65
2 (2) (b) and 346.65 (2j) (b) of the statutes; **relating to:** counting of certain
3 convictions in drunk driving cases.

Analysis by the Legislative Reference Bureau

Under current law, when sentencing a person for the operation of a motor vehicle while under the influence of an intoxicant (OWI), the court is required to count the number of prior OWI offenses that the person has committed within certain time periods. Prior OWI offenses that the court must count include driving while under the influence of an intoxicant, driving while the person has a prohibited alcohol concentration, causing injury, great bodily harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration and improperly refusing to submit to a test to determine the alcohol concentration in the person's blood.

Currently, if a person is convicted of driving while under the influence of an intoxicant or while the person has a prohibited alcohol concentration or of driving a commercial motor vehicle while having a blood alcohol concentration of 0.04 to 0.1 and the person has one prior OWI conviction within the previous ten-year period, the court revokes the person's operating privilege for not less than one year nor more than 18 months, fines the person not less than \$300 nor more than \$1,000 and imprisons the person for not less than five days nor more than six months. Under this bill, in addition to counting OWI offenses committed within the previous ten-year period, if the person has, at any time in his or her life, caused great bodily

ASSEMBLY BILL 665

harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration, that offense is counted as a prior OWI offense and the penalties listed above apply.

Currently, if a court determines that a person improperly refused to submit to a test to determine the alcohol concentration in the person's blood and the person has one prior OWI conviction within the previous ten-year period, the court revokes the person's operating privilege for two years. Under this bill, in addition to counting OWI offenses committed within the previous ten-year period, if the person has, at any time in his or her life, caused great bodily harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration, that offense is counted as a prior OWI offense and the court is required to revoke the person's operating privilege for two years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.30 (1q) (b) 3. of the statutes is amended to read:

343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (1) ~~within a 10-year period,~~ equals 2, the court shall revoke the person's operating privilege for not less than one year nor more than 18 months. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

SECTION 2. 343.305 (10) (b) 3. of the statutes is amended to read:

343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (2) ~~within a 10-year period,~~ equals 2, the court shall revoke the person's operating privilege for

ASSEMBLY BILL 665

1 2 years. After the first 90 days of the revocation period, the person is eligible for an
2 occupational license under s. 343.10 if he or she has completed the assessment and
3 is complying with the driver safety plan.

4 **SECTION 3.** 343.31 (3) (bm) 3. of the statutes is amended to read:

5 343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions
6 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
7 suspensions, revocations and other convictions counted under s. 343.307 (1) within
8 a 10-year period, equals 2, the department shall revoke the person's operating
9 privilege for not less than one year nor more than 18 months. If an Indian tribal court
10 in this state revokes the person's privilege to operate a motor vehicle on tribal lands
11 for not less than one year nor more than 18 months for the conviction specified in par.
12 (bm) (intro.), the department shall impose the same period of revocation. After the
13 first 60 days of the revocation period, the person is eligible for an occupational license
14 under s. 343.10.

15 **SECTION 4.** 346.65 (2) (b) of the statutes is amended to read:

16 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$300
17 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months
18 if the total number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
19 lifetime, plus the total number of prior suspensions, revocations and other
20 convictions counted under s. 343.307 (1) ^{after 1/1/89} within a 10-year period, equals 2 ~~within a~~
21 ~~10-year period.~~ Suspensions, revocations or convictions arising out of the same
22 incident or occurrence shall be counted as one.

23 **SECTION 5.** 346.65 (2j) (b) of the statutes is amended to read:

24 346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300
25 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months

1 if the ~~total number of prior convictions under ss. 940.09 (1) and 940.25 in the person's~~
2 ~~lifetime, plus the total number of prior other convictions,~~ suspension and revocations
3 counted under s. 343.307 (2) ~~within a 10-year period,~~ equals 2 ~~within a 10-year~~
4 ~~period.~~

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to offenses committed on the effective date of this
7 subsection, but does not preclude the counting of other convictions, suspensions or
8 revocations as prior convictions, suspensions or revocations for purposes of
9 administrative action by the department of transportation or sentencing by a court.

10 (END)

TO: BOB/PEN

[CORRECTIONS FOR NEXT DRAFT] /pz

FROM: KMG

3-4-2000

RE: LRBs0372/P1

***** PLEASE USE ANOTHER COLOR FOR ANY CHANGES *****

✓ 1. page 2, line 11: is my change to the relating clause correct? Its original placement didn't make sense.

✓ 2. PEN: INSERT 4-22, 3rd line: the word looks like "resets", but that doesn't seem to make sense; is it supposed to be "results"? PEN

✓ 3. 343.301(1)(a): I deleted "motor" since that is how 343.04(1)(d) refers to those vehicles; OK?

✓ 4. 343.301(1)(b): I changed "and not" to "nor". The reason is that to say "and not" provides **2 penalties** — and in this case that wouldn't make sense.

✓ 5. COMMENT: not all changes are listed.

✓ 6. 343.301(2)(e): I changed "(a)" to "(d)"; OK? Also, note that I changed "serial number" to "VIN"; is that correct?

✓ 7. 346.63(2g)(b), 2nd line: we don't need both "this subsection" and "par. (a)".

No - see my changes? ✓ 8. page 16, line 14, of the bill: should "~~if the par. (a) 1,~~" be restored? [in s. 346.65(6)(d)]

9. Amend this stat.:

165.83(2)(e)

(e) Obtain and file a copy or detailed description of each arrest warrant issued in this state for the offenses under par. (a) ~~or s. 800.03(4)~~ but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.

No? referring to JID? ✓ 10. ~~347.413(1): on line 11, should "(1)" be "(2)"?~~

✓ 11. ~~page 15 of RPN inserts: see my purple changes — is this correct?~~

✓ 12. I will completely check the list of statutes in the initial app. and the effec. dates on the next draft.

Sections Affected Post-Drafting-Check For 99-3137/1rpn

Tuesday, March 7, 2000 1:12 pm

Current Wisconsin Statutes updated through 1999 Act 30

Due 3/8/2000 if possible
4 p.m.

SECTION (Sub)(Par)

TREATMENT

AFFECTED BY

draft contains act or law treatments. #/n20.435(6)(hx)

am.

Act 0009

~~30.74(title)(intro.)~~

r. effec. 5-1-1999 WisAct 198 of 1997

~~85.53(3)~~

am.

Act 0009

~~125.07(4)(bs)3.~~

~~am. effec. 1-1-2000 WisAct 84 of 1997~~

~~125.07(4)(bs)4.~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~125.07(4)(c)3.~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~125.07(4)(e)4.~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~343.30(6)(b)(intro.)~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~343.30(6)(b)3.~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~441.50(7)(c)~~

(cr. 1999 WisAct 22) rn. 441.50 (7) (g) 13.93

~~938.344(2)(c)~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~938.344(2b)(c)~~

am. effec. 1-1-2000 WisAct 84 of 1997

~~938.344(2d)(c)~~

am. effec. 1-1-2000 WisAct 84 of 1997

1248 Dan Rossmiller -

6-2500

3/9/a

underage - maintain current law if no motor vehicle involved
re: duration + period of suspension
for acts not involving motor vehicle
mandatory \Rightarrow if beverage involved (same ^{suspension} periods
(in current law))

"nonprofit corporation"

good samaritan language

Underage drinking offenses -

maintain current law in all respects,
(including periods of suspension), except
make DL suspension mandatory for 21
+ subsequent underage drinking offenses

"involving a motor vehicle".

-PEN

need 3/10/11 by 11 a.m.

1999 - 2000 LEGISLATURE

LRBs0372/PA 2
RPN/PEN/JEO:kg:jf

MGD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,

TO 1999 SENATE BILL 125

regen

1 **AN ACT** *to repeal* 343.10 (5) (a) 3., 343.10 (7) (cm), 346.65 (6) (a) 2., 347.413 (2)
2 and 800.03 (4); *to renumber* 343.30 (1p); *to renumber and amend* 940.09
3 (1d) and 940.25 (1d); *to amend* 20.435 (6) (hx), 85.53 (1) (d), 125.07 (4) (bs)
4 (intro.) and 2., 125.07 (4) (bs) 3. and 4., 125.07 (4) (c) (intro.) and 2., 125.07 (4)
5 (c) 3. and 4., 125.07 (4) (e) 2. (intro.), 343.10 (5) (b), 343.30 (1q) (h), 343.30 (6)
6 (b) (intro.), 343.30 (6) (b) 1. and 2., 343.30 (6) (b) 3., 343.303, 343.305 (3) (a),
7 343.305 (3) (b), 343.305 (5) (b), 343.305 (9) (a) 1., 343.305 (9) (a) 5. a., 343.305
8 (9) (d), 343.305 (10m), 344.576 (2) (b), 346.63 (2m), 346.65 (2) (b), 346.65 (2) (c),
9 346.65 (2) (d), 346.65 (2) (e), 346.65 (2g) (a), 346.65 (2g) (b), 346.65 (2g) (c),
10 346.65 (2m) (b), 346.65 (6) (a) 1., 346.65 (6) (a) 2m., 346.65 (6) (a) 3., 346.65 (6)
11 (b), 346.65 (6) (c), 346.65 (6) (d), 346.655 (1), 346.655 (2) (a), 346.655 (2) (b),
12 346.95 (2), 347.413 (1), 347.413 (3), 347.417 (1), 347.417 (2), 349.03 (2m), 349.06

reger

(1m), 885.235 (1m), 885.235 (4), 938.344 (2) (intro.), 938.344 (2b) (intro.) and (b) and 938.344 (2b) (c); and **to create** 20.395 (5) (ek), 51.30 (4) (b) 25., 85.55, 110.10, 303.065 (2m), 303.08 (1) (cg), 303.08 (1) (cm), 303.08 (10m), 343.30 (1p) (b), 343.301, 343.305 (10) (eg), 346.63 (2g), 346.65 (2g) (ag), 346.65 (2n), 346.93 (2f), 346.93 (2g), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes; **relating to:**

operating a motor vehicle while under the influence of an intoxicant or drugs, or both; *immobilization of,* installation of an ignition interlock device *on* ~~in cases involving~~ intoxicated operation of a motor vehicle *and* seizure of motor vehicles for offenses related to driving while under the influence of an intoxicant; *absolute sobriety for repeat drunken drivers* ~~the prohibited~~ alcohol concentration related to operating a motor vehicle while under the influence of an intoxicant; restrictions on prisoner release from jail or prison; creating a safe-ride grant program; creating an ignition interlock device program; *counting drunk driving offenses* pretrial intoxicated driver intervention grants; requiring a report on incarceration alternatives and ignition interlock devices; certain alcohol beverage offenses committed by persons under the legal drinking age; granting rule-making authority; making appropriations; and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (5) (ek) of the statutes is created to read:

20.395 (5) (ek) *Safe-ride grant program; state funds.* From the general fund, all moneys transferred from the appropriation account under s. 20.435 (6) (hx) for the purpose of awarding grants under s. 85.55.

SECTION 2. 20.435 (6) (hx) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

1 20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the
2 schedule for services related to drivers. All moneys received by the state treasurer
3 from the driver improvement surcharge on court fines and forfeitures authorized
4 under s. 346.655 and all moneys transferred from the appropriation account under
5 s. 20.395 (5) (di) shall be credited to this appropriation. The secretary of
6 administration shall annually transfer to the appropriation account under s. 20.395
7 (5) (ek) 3.76% of all moneys credited to this appropriation from the driver
8 improvement surcharge. Any unencumbered moneys in this appropriation account
9 may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5)
10 (ci) and (di) and 20.455 (5) (h) by the secretary of administration after consultation
11 with the secretaries of health and family services and transportation, the
12 superintendent of public instruction, the attorney general and the president of the
13 university of Wisconsin system.

14 **SECTION 3.** 51.30 (4) (b) 25. of the statutes is created to read:

15 51.30 (4) (b) 25. To the department of corrections or to a sheriff, to determine
16 if a person incarcerated is complying with the assessment or the driver safety plan
17 ordered under s. 343.30 (1q) (c).

18 **SECTION 4.** 85.53 (1) (d) of the statutes is amended to read:

19 85.53 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1),
20 (2g) or (2m) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),
21 940.09 (1) or 940.25.

22 **SECTION 5.** 85.55 of the statutes is created to read:

23 **85.55 Safe-ride grant program.** The department may award grants to any
24 county or municipality or to any nonprofit corporation, as defined in s. 46.93 (1m) (c),
25 to cover the costs of transporting persons suspected of having a prohibited alcohol

1 concentration, as defined in s. 340.01 (46m), from any premises licensed under ch.
2 125 to sell alcohol beverages to their places of residence. The amount of a grant under
3 this section may not exceed 50% of the costs necessary to provide the service. The
4 liability of a provider of a safe-ride program to persons transported under the
5 program is limited to the amounts required for an automobile liability policy under
6 s. 344.15 (1). Grants awarded under this section shall be paid from the appropriation
under s. 20.395 (5) (ek).

7
8 **SECTION 6.** 110.10 of the statutes is created to read:

9 **110.10 Ignition interlock device program.** The department shall
10 promulgate rules providing for the implementation of an ignition interlock device
11 program that will be conveniently available to persons throughout this state. The
12 rules shall include provisions regarding all of following:

13 (1) The selection of persons to install, service and remove ignition interlock
14 devices from motor vehicles.

15 (2) The periodic review of the fees charged to the owner of a vehicle for the
16 installation, service and removal of an ignition interlock device.

17 (3) Requiring ignition interlock device providers operating in this state to
18 establish pilot programs involving the voluntary use of ignition interlock devices.

19 (4) Requiring ignition interlock device providers operating in this state to
20 provide the department and law enforcement agencies designated by the department
21 with installation, service, tampering and failure reports in a timely manner.

22 (5) Requiring ignition interlock device providers to notify the department of
23 any ignition interlock device tampering, circumvention, bypass or violation resets,
24 including all relevant data recorded in the device's memory. Upon receiving notice

1 described in this subsection, the department shall immediately provide the notice
2 and data to the provider that is administering the violator's driver safety plan.

3 SECTION 7. 125.07 (4) (bs) (intro.) and 2. of the statutes are amended to read:

4 125.07 (4) (bs) (intro.) Any person violating par. (a) ~~is subject to the following~~
5 ~~penalties shall be penalized as follows:~~

6 2. For a violation committed within 12 months of a previous violation, the
7 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
8 the person is subject to either a forfeiture of not less than \$300 nor more than \$500,
9 ~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~
10 participation in a supervised work program or other community service work under
11 par. (cg) or any combination of these penalties.

12 SECTION 8. 125.07 (4) (bs) 3. and 4. of the statutes, as affected by 1997
13 Wisconsin Act 84, are amended to read:

14 125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous
15 violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b)
16 3. In addition, the person is subject to either a forfeiture of not less than \$500 nor
17 more than \$750, suspension of the person's operating privilege under s. 343.30 (6)
18 (b) 3., participation in a supervised work program or other community service work
19 under par. (cg) or any combination of these penalties.

20 4. For a violation committed within 12 months of 3 or more previous violations,
21 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
22 addition, the person is subject to either a forfeiture of not less than \$750 nor more
23 than \$1,000, suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,
24 participation in a supervised work program or other community service work under
25 par. (cg) or any combination of these penalties.

1 **SECTION 9.** 125.07 (4) (c) (intro.) and 2. of the statutes are amended to read:

2 125.07 (4) (c) (intro.) Any person violating par. (b) ~~is subject to the following~~
3 penalties shall be penalized as follows:

4 2. For a violation committed within 12 months of a previous violation, the
5 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
6 the person is subject to either a forfeiture of not less than \$200 nor more than \$300,
7 ~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~
8 participation in a supervised work program or other community service work under
9 par. (cg) or any combination of these penalties.

10 **SECTION 10.** 125.07 (4) (c) 3. and 4. of the statutes, as affected by 1997
11 Wisconsin Act 84, are amended to read:

12 125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous
13 violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b)
14 3. In addition, the person is subject to either a forfeiture of not less than \$300 nor
15 more than \$500, ~~suspension of the person's operating privilege under s. 343.30 (6)~~
16 ~~(b) 3.,~~ participation in a supervised work program or other community service work
17 under par. (cg) or any combination of these penalties.

18 4. For a violation committed within 12 months of 3 or more previous violations,
19 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
20 addition, the person is subject to either a forfeiture of not less than \$500 nor more
21 than \$1,000, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,~~
22 participation in a supervised work program or other community service work under
23 par. (cg) or any combination of these penalties.

24 **SECTION 11.** 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

1 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court,
2 with the agreement of the defendant, may enter an additional order staying the
3 execution of the penalty order and suspending or modifying the penalty imposed,
4 except that the court may not stay, suspend or modify the suspension of a person's
5 operating privilege required under par. (bs) or (c). The order under this subdivision
6 shall require the defendant to do any of the following:

7 **SECTION 12.** 303.065 (2m) of the statutes is created to read:

8 303.065 (2m) The department may not grant work release privileges to a
9 prisoner who is imprisoned for a violation of s. 346.63 (1), (2), (5) or (6) and who fails
10 to obtain the assessment or to comply with the driver safety plan ordered under s.
11 343.30 (1q) (c) related to the violation for which he or she was imprisoned. This
12 subsection does not apply if the prisoner does not have sufficient funds to make any
13 payments necessary to obtain the assessment or to comply with the driver safety
14 plan.

15 **SECTION 13.** 303.08 (1) (cg) of the statutes is created to read:

16 303.08 (1) (cg) Attendance at an assessment ordered by a court under s. 343.30
17 (1q) (c);

18 **SECTION 14.** 303.08 (1) (cm) of the statutes is created to read:

19 303.08 (1) (cm) Attendance at a treatment program required by a driver safety
20 plan under s. 343.30 (1q) (c);

21 **SECTION 15.** 303.08 (10m) of the statutes is created to read:

22 303.08 (10m) The sheriff may not permit a prisoner who is imprisoned for a
23 violation of s. 346.63 (1), (2), (5) or (6) to leave the jail under sub. (1) if the prisoner
24 fails to obtain the assessment or to comply with the driver safety plan ordered under
25 s. 343.30 (1q) (c). This subsection does not apply if the prisoner does not have

Insert
7-6

1 sufficient funds to make any payments necessary to obtain the assessment or to
2 comply with the driver safety plan.

3 ~~SECTION 16. 343.10 (5) (a) 3. of the statutes is repealed.~~ *amended* *346.657*

4 **SECTION 17.** 343.10 (5) (b) of the statutes is amended to read:

5 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
6 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b), (eg) and (em),
7 343.31 (3m), 343.32 (1m), 767.303 and 961.50.

8 ~~SECTION 18. 343.10 (7) (cm) of the statutes is repealed.~~

9 **SECTION 19.** 343.30 (1p) of the statutes is renumbered 343.30 (1p) (a).

10 **SECTION 20.** 343.30 (1p) (b) of the statutes is created to read:

11 343.30 (1p) (b) Notwithstanding sub. (1), a court shall suspend the operating
12 privilege of a person for 6 months upon the person's conviction by the court for
13 violation of s. ~~346.63 (2g)~~ *346.657* ✓ or a local ordinance in conformity with s. ~~346.63 (2g)~~ *346.657* ✓. If
14 there was a minor passenger under 16 years of age in the motor vehicle at the time
15 of the violation that gave rise to the conviction under s. ~~346.63 (2g)~~ *346.657* ✓ or a local
16 ordinance in conformity with s. ~~346.63 (2g)~~ *346.657* ✓, the court shall suspend the operating
17 privilege of the person for 12 months.

18 **SECTION 21.** 343.30 (1q) (h) of the statutes is amended to read:

19 343.30 (1q) (h) The court or department shall provide that the period of
20 suspension or revocation imposed under this subsection shall be reduced by any
21 period of suspension or revocation previously served under s. 343.305 if the
22 suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63
23 (1) ~~or (2m)~~ *or 346.657* ✓ or a local ordinance in conformity therewith arise out of the same
24 incident or occurrence. The court or department shall order that the period of
25 suspension or revocation imposed under this subsection run concurrently with any

1 period of time remaining on a suspension or revocation imposed under s. 343.305
2 arising out of the same incident or occurrence. The court may modify an occupational
3 license authorized under s. 343.305 (8) (d) in accordance with this subsection.

4 **SECTION 22.** 343.30 (6) (b) (intro.) of the statutes, as affected by 1997 Wisconsin
5 Act 84, is amended to read:

6 343.30 (6) (b) (intro.) If a court imposes suspension of a person's operating
7 privilege under s. 125.07 (4) (bs) or (c) or 938.344 (2), (2b) or (2d), the suspension
8 imposed shall be one of the following:

9 **SECTION 23.** 343.30 (6) (b) 1. and 2. of the statutes are amended to read:

10 343.30 (6) (b) 1. For a first violation, suspension for ~~30 to 90 days~~ not more than
11 one year.

12 2. For a violation committed within 12 months of a previous violation,
13 suspension for not ~~more~~ less than one year nor more than 18 months.

14 **SECTION 24.** 343.30 (6) (b) 3. of the statutes, as affected by 1997 Wisconsin Act
15 84, is amended to read:

16 343.30 (6) (b) 3. For a violation committed within 12 months of 2 or more
17 previous violations, suspension for not ~~more~~ less than 2 years nor more than 5 years.

18 **SECTION 25.** 343.301 of the statutes is created to read:

19 **343.301 Installation of ignition interlock device or immobilization of**
20 **a motor vehicle.** (1) IGNITION INTERLOCK. (a) If a person ~~is convicted of~~ ^{violates} improperly
21 ~~refusing~~ ^{refuses} to take a test under s. 343.305 or ~~violating~~ ^{violates} s. 346.63 (1) or (2), 940.09 (1) or
22 940.25, and the person has one or more prior suspensions, revocations or convictions
23 that would be counted under s. 343.307 (1), the court may order that the person's
24 operating privilege for the operation of "Class D" vehicles be restricted to operating
25 "Class D" vehicles that are equipped with an ignition interlock device.

(b) The court may restrict the operating privilege restriction under par. (a) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted ~~under s. 343.31 (3) (a)~~ *for the refusal or violation*.

(c) If the court restricts the person's operating privilege under par. (a), the person shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed in his or her motor vehicle.

(d) A person to whom a restriction under this subsection applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device.

(2) IMMOBILIZATION. (a) If a person ~~is convicted of violating~~ *improperly refusing^{ES} to take a test under s. 343.305* s. 346.63 (1) or (2), *or violates* 940.09 (1) or 940.25, and the person has one or more prior suspensions, revocations or convictions that would be counted under s. 343.307 (1), the court may order that the motor vehicle used during *refusal or* the violation and owned by the person be immobilized.

(b) The court may order the immobilization under par. (a) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted ~~under s. 343.31 (3) (a)~~ *for the refusal or violation*.

(c) If the court orders that the person's motor vehicle be immobilized, the person shall be liable for the reasonable cost of equipping and maintaining any immobilization device installed on his or her motor vehicle.

(d) The court shall notify the department, in a form and manner prescribed by the department, that an order to immobilize a motor vehicle has been entered. The registration records of the department shall reflect that the order has been entered

1 against the motor vehicle and remains unexecuted. Any law enforcement officer may
2 execute that order based on the information provided by the department. The law
3 enforcement agency shall notify the department when an order has been executed
4 under this paragraph and the department shall amend its vehicle registration
5 records to reflect that notification.

6 (e) Within 10 days after immobilizing a motor vehicle under par. (d), the law
7 enforcement agency that immobilized the vehicle shall provide notice of the
8 immobilization by certified mail to the owner of the motor vehicle and to all
9 lienholders of record. The notice shall set forth the year, make, model and vehicle
10 identification number of the motor vehicle, where the motor vehicle is located and
11 the reason for the immobilization.

12 **SECTION 26.** 343.303 of the statutes is amended to read:

13 **343.303 Preliminary breath screening test.** If a law enforcement officer
14 has probable cause to believe that the person is violating or has violated s. 346.63 (1),
15 ~~(2a)~~ ^{OR § 346.657} or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or
16 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer
17 detects any presence of alcohol, a controlled substance, controlled substance analog
18 or other drug, or a combination thereof, on a person driving or operating or on duty
19 time with respect to a commercial motor vehicle or has reason to believe that the
20 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity
21 therewith, the officer, prior to an arrest, may request the person to provide a sample
22 of his or her breath for a preliminary breath screening test using a device approved
23 by the department for this purpose. The result of this preliminary breath screening
24 test may be used by the law enforcement officer for the purpose of deciding whether
25 or not the person shall be arrested for a violation of s. 346.63 (1), ~~(2a)~~ ^{OR § 346.657} (2m), (5) or (7).

1 or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09 (1) or
2 940.25 and whether or not to require or request chemical tests as authorized under
3 s. 343.305 (3). The result of the preliminary breath screening test shall not be
4 admissible in any action or proceeding except to show probable cause for an arrest,
5 if the arrest is challenged, or to prove that a chemical test was properly required or
6 requested of a person under s. 343.305 (3). Following the screening test, additional
7 tests may be required or requested of the driver under s. 343.305 (3). The general
8 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary
9 breath screening test.

10 SECTION 27. 343.305 (3) (a) of the statutes is amended to read:

11 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), ~~(2g)~~ (2m)
12 or ~~(5)~~ ^{or § 346.657} or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2)
13 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law
14 enforcement officer may request the person to provide one or more samples of his or
15 her breath, blood or urine for the purpose specified under sub. (2). Compliance with
16 a request for one type of sample does not bar a subsequent request for a different type
17 of sample.

18 SECTION 28. 343.305 (3) (b) of the statutes is amended to read:

19 343.305 (3) (b) A person who is unconscious or otherwise not capable of
20 withdrawing consent is presumed not to have withdrawn consent under this
21 subsection, and if a law enforcement officer has probable cause to believe that the
22 person has violated s. 346.63 (1), ~~(2g)~~ ^{or § 346.657} (2m) or (5) or a local ordinance in conformity
23 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the
24 use of a vehicle, or detects any presence of alcohol, controlled substance, controlled
25 substance analog or other drug, or a combination thereof, on a person driving or

1 operating or on duty time with respect to a commercial motor vehicle or has reason
2 to believe the person has violated s. 346.63 (7), one or more samples specified in par.
3 (a) or (am) may be administered to the person.

4 **SECTION 29.** 343.305 (5) (b) of the statutes is amended to read:

5 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation
6 of s. 346.63 (1), (2), ~~(2m)~~ ^{or 346.657} (5) or (6) or 940.25, or s. 940.09 where the offense
7 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), ~~(2m)~~
8 (2m) or (5) ^{or 346.657} or as provided in sub. (3) (am) or (b) to determine the presence or quantity
9 of alcohol, a controlled substance, a controlled substance analog or any other drug,
10 or any combination of alcohol, controlled substance, controlled substance analog and
11 any other drug in the blood only by a physician, registered nurse, medical
12 technologist, physician assistant or person acting under the direction of a physician.

13 **SECTION 30.** 343.305 (9) (a) 1. of the statutes is amended to read:

14 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed
15 the person under arrest for a violation of s. 346.63 (1), ~~(2m)~~ ^{or 346.657} (5) or a local
16 ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

17 **SECTION 31.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

18 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the
19 person was driving or operating a motor vehicle while under the influence of alcohol,
20 a controlled substance or a controlled substance analog or any combination of
21 alcohol, a controlled substance and a controlled substance analog, under the
22 influence of any other drug to a degree which renders the person incapable of safely
23 driving, or under the combined influence of alcohol and any other drug to a degree
24 which renders the person incapable of safely driving or having a prohibited alcohol
25 concentration or, if the person was driving or operating a commercial motor vehicle,

1 an alcohol concentration of 0.04 or more and whether the person was lawfully placed
2 under arrest for violation of s. 346.63 (1), ~~(2m)~~ ^{or s. 346.657} or (5) or a local ordinance in
3 conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

4 SECTION 32. 343.305 (9) (d) of the statutes is amended to read:

5 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court
6 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined
7 adversely to the person, the court shall proceed under sub. (10). If one or more of the
8 issues is determined favorably to the person, the court shall order that no action be
9 taken on the operating privilege on account of the person's refusal to take the test in
10 question. This section does not preclude the prosecution of the person for violation
11 of s. 346.63 (1), ~~(2m)~~ ^{or 346.657} (5) or (7) or a local ordinance in conformity therewith, or
12 s. 346.63 (2) or (6), 940.09 (1) or 940.25.

13 SECTION 33. 343.305 (10) (eg) of the statutes is created to read:

14 343.305 (10) (eg) One penalty for improperly refusing to submit to a test for
15 intoxication regarding a person arrested for a violation of s. ~~346.63 (2m)~~ ^{346.657} or a local
16 ordinance in conformity therewith is revocation of the person's operating privilege
17 for 12 months. If there was a minor passenger under 16 years of age in the motor
18 vehicle at the time of the incident that gave rise to the improper refusal, the
19 revocation period is 24 months. After the first 15 days of the revocation period, the
20 person is eligible for an occupational license under s. 343.10. Any such improper
21 refusal or revocation for the refusal does not count as a prior refusal or a prior
22 revocation under this section or s. 343.307. The person shall not be required to
23 submit to and comply with any assessment or driver safety plan under pars. (c) and
24 (d).

25 SECTION 34. 343.305 (10m) of the statutes is amended to read:

343.305 (10m) REFUSALS, SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF A**MOTOR VEHICLE.** If the person whose operating privilege is revoked under sub. (10)has ~~2~~ one or more prior convictions, suspensions or revocations, as counted under s.343.307 (1), the procedure under s. 346.65 (6) 343.301 shall be followed regarding ifthe court orders the immobilization or seizure and forfeiture of a motor vehicle ownedby ~~the person or the~~ the used and equipping of ~~a~~ the motor vehicle owned by the person with an

ignition interlock device.

SECTION 35. 344.576 (2) (b) of the statutes is amended to read:

344.576 (2) (b) The damage occurs while the renter or authorized driver operates the private passenger vehicle in this state while under the influence of an intoxicant or other drug, as described under s. 346.63 (1) (a) or (b), (2g) or (2m).

SECTION 36. 346.63 (2g) of the statutes is created to read:**(B) Absolute sobriety for repeat drunken drivers.** No person who has 3 or more prior suspensions, revocations of

convictions that would be counted under s. 343.307 (1) may drive or operate a motor

vehicle while he or she has an alcohol concentration of more than 0.0 but less than

0.08. Upon convicting a person of violating this subsection, the court may suspend

the person's operating privilege under s. 343.30 (1p) (b). The person is eligible for an

occupational license under s. 343.10 at any time. If a person arrested for a violation

of this subsection refuses to take a test under s. 343.305, the refusal is a separate

violation and the person is subject to revocation of the person's operating privilege

under s. 343.305 (10) (eg). The clerk of the court in which the conviction occurred

shall forward the record of conviction under this subsection paragraph to the department. Uponreceiving a record of conviction under this subsection paragraph, the department shall

immediately provide notice of the conviction to the provider that is administering the

violator's driver safety plan.

(cont ↓)

(1) (2) Notwithstanding s. 349.02, a law enforcement officer may not stop or
(2) inspect a vehicle solely to determine compliance with this ~~sub~~section or a local
(3) ordinance in conformity with this ~~sub~~section, or rules of the department. This
(4) ^{subsection} paragraph does not limit the authority of a law enforcement officer to issue a citation
(5) for a violation of this ~~sub~~section or a local ordinance in conformity with this
(6) ~~sub~~section, or rules of the department, observed in the course of a stop or inspection
(7) made for other purposes. *Insert to 24, L. 5.*

8 SECTION 37. 346.63 (2m) of the statutes is amended to read:

9 346.63 (2m) If a person has not attained the legal drinking age, as defined in
10 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
11 has an alcohol concentration of more than 0.0 but not more than 0.1. One penalty
12 for violation of this subsection is suspension of a person's operating privilege under
13 s. 343.30 (1p) (a). The person is eligible for an occupational license under s. 343.10
14 at any time. If a person arrested for a violation of this subsection refuses to take a
15 test under s. 343.305, the refusal is a separate violation and the person is subject to
16 revocation of the person's operating privilege under s. 343.305 (10) (em).

17 SECTION 38. 346.65 (2) (b) of the statutes is amended to read:

18 346.65 (2) (b) Except as provided in ^{par. (f) and (g)} ~~par. (f)~~, shall be fined not less than ~~\$300~~ ^{\$350}
19 nor more than ~~\$1,000~~ ^{\$1,100} ~~\$2,000~~ and imprisoned for not less than 5 days nor more than
20 6 months if the total number of suspensions, revocations and convictions counted
21 under s. 343.307 (1) equals 2 [✓] ~~within a 10-year period~~. Suspensions, revocations or
22 convictions arising out of the same incident or occurrence shall be counted as one.

23 SECTION 39. 346.65 (2) (c) of the statutes is amended to read:

24 346.65 (2) (c) Except as provided in ^{par. (f) and (g)} ~~par. (f)~~, shall be fined not less than \$600
25 nor more than ~~\$2,000~~ ^{\$3,000} and imprisoned for not less than 30 days nor more than
plain

1 one year in the county jail if the total number of suspensions, revocations and
2 convictions counted under s. 343.307 (1) equals 3, except that suspensions,
3 revocations or convictions arising out of the same incident or occurrence shall be
4 counted as one.

5 SECTION 40. 346.65 (2) (d) of the statutes is amended to read:

6 346.65 (2) (d) Except as provided in ^{par. 1} ~~par. (f)~~ ^{and (g)}, shall be fined not less than \$600
7 nor more than ^{plain} ~~\$2,000~~ ~~\$4,000~~ and imprisoned for not less than 60 days nor more than
8 one year in the county jail if the total number of suspensions, revocations and
9 convictions counted under s. 343.307 (1) equals 4, except that suspensions,
10 revocations or convictions arising out of the same incident or occurrence shall be
11 counted as one.

12 SECTION 41. 346.65 (2) (e) of the statutes is amended to read:

13 346.65 (2) (e) Except as provided in ^{par. 1} ~~par. (f)~~ ^{and (g)}, shall be fined not less than \$600 nor
14 more than ^{plain} ~~\$2,000~~ ~~\$5,000~~ and imprisoned for not less than 6 months nor more than
15 5 years if the total number of suspensions, revocations and convictions counted
16 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or
17 convictions arising out of the same incident or occurrence shall be counted as one.

18 SECTION 42. 346.65 (2g) (a) of the statutes is amended to read:

19 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)
20 to provide that a defendant perform community service work for a public agency or
21 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
22 (2) (b) to ⁽²⁾ ~~(f)~~ and except as provided in par. (ag), the court may provide that a defendant
23 perform community service work for a public agency or a nonprofit charitable
24 organization in lieu of part or all of a forfeiture under sub. (2) (a) or may require a
25 person who is subject to sub. (2) to perform community service work for a public

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1 agency or a nonprofit charitable organization in addition to the penalties specified
2 under sub. (2).

3 (am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or (ag) may only
4 apply if agreed to by the organization or agency. The court shall ensure that the
5 defendant is provided a written statement of the terms of the community service
6 order and that the community service order is monitored. Any organization or
7 agency acting in good faith to which a defendant is assigned pursuant to an order
8 under this subsection has immunity from any civil liability in excess of \$25,000 for
9 acts or omissions by or impacting on the defendant. The issuance or possibility of the
10 issuance of a community service order under this subsection does not entitle an
11 indigent defendant who is subject to sub. (2) (a) to representation by counsel under
12 ch. 977.

13 **SECTION 43.** 346.65 (2g) (ag) of the statutes is created to read:

14 346.65 (2g) (ag) If the court determines that a person does not have the ability
15 to pay a fine imposed under sub. (2) (b) to ^(g)~~to~~, the court shall require the defendant ^(g)
16 to perform community service work for a public agency or a nonprofit charitable
17 organization in lieu of paying the fine imposed or, if the amount of the fine was
18 reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each
19 hour of community service performed in compliance with an order under this
20 paragraph shall reduce the amount of the fine owed by an amount determined by the
21 court.

22 **SECTION 44.** 346.65 (2g) (b) of the statutes is amended to read:

23 346.65 (2g) (b) The court may require a person ordered to perform community
24 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
25 resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community

1 service work that demonstrates the adverse effects of substance abuse or of operating
2 a vehicle while under the influence of an intoxicant or other drug, including working
3 at an alcoholism treatment facility approved under s. 51.45, an emergency room of
4 a general hospital or a driver awareness program under s. 346.637. The court may
5 order the person to pay a reasonable fee, based on the person's ability to pay, to offset
6 the cost of establishing, maintaining and monitoring the community service work
7 ordered under this paragraph. If the opportunities available to perform community
8 service work are fewer in number than the number of defendants eligible under this
9 subsection, the court shall, when making an order under this paragraph, give
10 preference to defendants who were under 21 years of age at the time of the offense.
11 All provisions of par. (a) ~~(a)~~ (am) apply to any community service work ordered under
12 this paragraph.

13 SECTION 45. 346.65 (2g) (c) of the statutes is amended to read:

14 346.65 (2g) (c) If there was a minor passenger under 16 years of age in the
15 motor vehicle or commercial motor vehicle at the time of the violation that gave rise
16 to the conviction, the court may require a person ordered to perform community
17 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
18 resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to
19 participate in community service work that benefits children or that demonstrates
20 the adverse effects on children of substance abuse or of operating a vehicle while
21 under the influence of an intoxicant or other drug. The court may order the person
22 to pay a reasonable fee, based on the person's ability to pay, to offset the cost of
23 establishing, maintaining and monitoring the community service work ordered
24 under this paragraph.

25 SECTION 46. 346.65 (2m) (b) of the statutes is amended to read:

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→

1 346.65 (2m) (b) The court shall consider a report submitted under s. 85.53 (2)
2 (d) when imposing a sentence under sub. (2), (2n), (2q) or (3m).

3 SECTION 47. 346.65 (2n) of the statutes is created to read:

4 346.65 (2n) Any person violating s. 346.63 (2g) shall forfeit not more than \$250.

5 If there was a minor passenger under 16 years of age in the motor vehicle at the time
6 of the violation that gave rise to the conviction under s. 346.63 (2g), the forfeiture is
7 doubled. this subsection

8 SECTION 48. 346.65 (6) (a) 1. of the statutes is amended to read:

9 346.65 (6) (a) 1. ~~Except as provided in this paragraph, the~~ The court may order
10 a law enforcement officer to seize a the motor vehicle, ~~or, if the motor vehicle is not~~
11 ~~ordered seized, shall order a law enforcement officer to equip the motor vehicle with~~
12 ~~an ignition interlock device or immobilize any motor vehicle~~ used during the
13 violation ~~and~~ ^{if} owned by the person whose operating privilege is revoked under s.
14 343.305 (10) or who committed a violation of s. 346.63 (1) (a), or (b) or (2) (a) 1. or 2.,
15 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating
16 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2
17 or more prior suspensions, revocations or convictions that would be counted under
18 s. 343.307 (1). ~~The court shall not order a motor vehicle equipped with an ignition~~
19 ~~interlock device or immobilized if that would result in undue hardship or extreme~~
20 ~~inconvenience or would endanger the health and safety of a person.~~

21 SECTION 49. 346.65 (6) (a) 2. of the statutes is repealed.

22 SECTION 50. 346.65 (6) (a) 2m. of the statutes is amended to read:

23 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,
24 equipping with an ignition interlock device or immobilization under this paragraph
25 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342

1 for every ~~the~~ motor vehicle owned by the person ~~that is subject to seizure~~. The person
2 shall comply with this subdivision within 5 working days after receiving notification
3 of this requirement from the district attorney. When a district attorney receives a
4 copy of a notice of intent to revoke the operating privilege under s. 343.305 (9) (a) of
5 a person who has 2 or more prior convictions, suspensions or revocations, as counted
6 under s. 343.307 (1), or when a district attorney notifies the department of the filing
7 of a criminal complaint against a person under s. 342.12 (4) (a), the district attorney
8 shall notify the person of the requirement to surrender ~~all certificates~~ the certificate
9 of title to the clerk of circuit court. The notification shall include the time limits for
10 that surrender, the penalty for failure to comply with the requirement and the
11 address of the clerk of circuit court. The clerk of circuit court shall promptly return
12 each ~~the~~ certificate of title surrendered to the clerk of circuit court under this
13 subdivision after stamping the certificate of title with the notation "Per section
14 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be
15 transferred without prior court approval". Any person failing to surrender a
16 certificate of title as required under this subdivision shall forfeit not more than \$500.

17 **SECTION 51.** 346.65 (6) (a) 3. of the statutes is amended to read:

18 346.65 (6) (a) 3. The court shall notify the department, in a form and manner
19 prescribed by the department, that an order to ~~equip a motor vehicle with an ignition~~
20 ~~interlock device, to immobilize a motor vehicle or to seize a motor vehicle~~ has been
21 entered. The registration records of the department shall reflect that the order has
22 been entered against the vehicle and remains unexecuted. Any law enforcement
23 officer may execute that order and shall transfer any motor vehicle ordered seized
24 to the law enforcement agency that was originally ordered to seize the vehicle based
25 on the information provided by the department. The law enforcement agency shall

1 notify the department when an order has been executed under this subdivision and
2 the department shall amend its vehicle registration records to reflect that
3 notification.

4 **SECTION 52.** 346.65 (6) (b) of the statutes is amended to read:

5 346.65 (6) (b) Within 10 days after seizing ~~or immobilizing~~ a motor vehicle
6 under par. (a), the law enforcement agency that seized ~~or immobilized~~ the vehicle
7 shall provide notice of the seizure ~~or immobilization~~ by certified mail to the owner
8 of the motor vehicle and to all lienholders of record. The notice shall set forth the
9 year, make, model and serial number of the motor vehicle, where the motor vehicle
10 is located, the reason for the seizure ~~or immobilization~~, and the forfeiture procedure
11 if the vehicle was seized. When a motor vehicle is seized under this section, the law
12 enforcement agency that seized the vehicle shall place the motor vehicle in a secure
13 place subject to the order of the court.

14 **SECTION 53.** 346.65 (6) (c) of the statutes is amended to read:

15 346.65 (6) (c) The district attorney of the county where the motor vehicle was
16 seized, ~~or where the owner was convicted of the violation under s. 346.63 (1) (a) or~~ *improperly refused to take the test under s. 343.305 or*
17 ~~(b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d), shall~~ *violated*
18 commence an action to forfeit the motor vehicle within 30 days after the motor vehicle
19 is seized. The action shall name the owner of the motor vehicle and all lienholders
20 of record as parties. The forfeiture action shall be commenced by filing a summons,
21 complaint and affidavit of the law enforcement agency with the clerk of circuit court.
22 Upon service of an answer, the action shall be set for hearing within 60 days after
23 the service of the answer. If no answer is served or no issue of law or fact joined and
24 the time for that service or joining of issues has expired, the court may render a
25 default judgment as provided in s. 806.02.

or the improper refusal

SECTION 54. 346.65 (6) (d) of the statutes is amended to read:

346.65 (6) (d) At the hearing set under par. (c), the state has the burden of proving to a reasonable certainty by the greater weight of the credible evidence that the motor vehicle *seized under par. (a) 1. ✓ used in the violation and* is a motor vehicle owned by a person who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) and, ~~if the seizure is under par. (a) 1.,~~ that the person had 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1).~~ If the ~~,, (e) or (d),, (e) or (d)~~ state fails to meet the burden of proof required under this paragraph, the motor vehicle shall be returned to the owner upon the payment of storage costs.

SECTION 55. 346.655 (1) of the statutes is amended to read:

346.655 (1) ~~On or after July 1, 1988, if~~ If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of \$340 \$345 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime laboratories and drug law enforcement assessment.

SECTION 56. 346.655 (2) (a) of the statutes is amended to read:

346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer as provided in s. 59.25 (3) (f) 2.

SECTION 57. 346.655 (2) (b) of the statutes is amended to read:

1 346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall
2 transmit the amount to the treasurer of the county, city, town or village, and that
3 treasurer shall make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer
4 as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit
5 the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county.

6 **SECTION 58.** 346.93 (2f) of the statutes is created to read:

7 346.93 (2f) Except as provided in sub. (2g), any person violating this section
8 may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

9 **SECTION 59.** 346.93 (2g) of the statutes is created to read:

10 346.93 (2g) Any person violating this section may be required to forfeit not less
11 than \$20 nor more than \$400 and shall have his or her operating privilege:

12 (b) For a violation committed within 12 months of a previous violation,
13 suspended under s. 343.30 (6) (b) 2.

14 (c) For a violation committed within 12 months of 2 or more previous violations,
15 suspended under s. 343.30 (6) (b) 3.

16 **SECTION 60.** 346.95 (2) of the statutes is amended to read:

17 346.95 (2) Any person violating s. 346.89 (1), ~~346.93~~ or 346.94 (2), (4) or (7) may
18 be required to forfeit not less than \$20 nor more than \$400.

19 **SECTION 61.** 347.413 (1) of the statutes is amended to read:

20 347.413 (1) No person may remove, disconnect, tamper with or otherwise
21 circumvent the operation of an ignition interlock device installed in response to the
22 court order under s. ~~346.65 (6)~~ 343.301 (1). This subsection does not apply to the
23 removal of an ignition interlock device upon the expiration of the order requiring the
24 motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
25 interlock device by a person authorized by the department.

1 SECTION 62. 347.413 (2) of the statutes is repealed.

2 SECTION 63. 347.413 (3) of the statutes is amended to read:

3 347.413 (3) The department shall design a warning label which shall be affixed
4 to each ignition interlock device upon installation. The label shall provide notice of
5 the penalties for tampering with or circumventing the operation of the ignition
6 interlock device under sub. (1) ~~and s. 343.10 (5) (a) 3.~~

7 SECTION 64. 347.417 (1) of the statutes is amended to read:

8 347.417 (1) No person may remove, disconnect, tamper with or otherwise
9 circumvent the operation of any immobilization device installed in response to a
10 court order under s. ~~346.65 (6)~~ ^{1999 statute or s.} 343.301 (2). This subsection does not apply to the
11 removal of an immobilization device pursuant to a court order or to necessary repairs
12 to a malfunctioning immobilization device.

13 SECTION 65. 347.417 (2) of the statutes is amended to read:

14 347.417 (2) The department shall design a warning label which shall be affixed
15 by the owner of each immobilization device before the device is used to immobilize
16 any motor vehicle under s. ~~346.65 (6)~~ 343.301 (2). The label shall provide notice of
17 the penalties for removing, disconnecting, tampering with or otherwise
18 circumventing the operation of the immobilization device.

19 SECTION 66. 349.03 (2m) of the statutes is amended to read:

20 349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license
21 for a violation of a local ordinance in conformity with s. ~~346.63 (1) (2g) or (2m)~~ ^{or 346.657} ✓

22 SECTION 67. 349.06 (1m) of the statutes is amended to read:

23 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license
24 for a violation of a local ordinance in conformity with s. ~~346.63 (1) (2g) or (2m)~~ ^{or 346.657} ✓

25 SECTION 68. 800.03 (4) of the statutes is repealed.

1 **SECTION 69.** 885.235 (1m) of the statutes is amended to read:

2 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 ~~(2g)~~ ✓
3 ^{346.657} (2m) or (7) or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood ✓
4 at the time in question, as shown by chemical analysis of a sample of the person's
5 blood or urine or evidence of the amount of alcohol in the person's breath, is
6 admissible on the issue of whether he or she had an alcohol concentration in the
7 range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 ~~(2g)~~ ^{346.657} (2m) or 350.101 ✓
8 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was
9 taken within 3 hours after the event to be proved. The fact that the analysis shows
10 that the person had an alcohol concentration of more than 0.0 but not more than 0.1
11 is prima facie evidence that the person had an alcohol concentration in the range
12 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 ~~(2g)~~ ^{346.657} (2m) or 350.101 (1) (c) ✓
13 or an alcohol concentration above 0.0 under s. 346.63 (7).

14 **SECTION 70.** 885.235 (4) of the statutes is amended to read:

15 885.235 (4) The provisions of this section relating to the admissibility of
16 chemical tests for alcohol concentration or intoxication shall not be construed as
17 limiting the introduction of any other competent evidence bearing on the question
18 of whether or not a person was under the influence of an intoxicant, had a specified
19 alcohol concentration or had an alcohol concentration in the range specified in s. ✓
20 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 ~~(2g)~~ ^{346.657} (2m) or 350.101 (1) (c).

21 **SECTION 71.** 938.344 (2) (intro.) of the statutes is amended to read:

22 938.344 (2) (intro.) If a court finds a juvenile committed a violation under s.
23 125.07 (4) (b) or 125.09 (2), or a local ordinance that strictly conforms to one of these
24 statutes that statute, the court shall order one or any combination of the following
25 penalties:

1 **SECTION 72.** 938.344 (2b) (intro.) and (b) of the statutes are amended to read:

2 938.344 (2b) (intro.) If a court finds a juvenile committed a violation under s.
3 125.07 (4) (a) or (b), or a local ordinance which strictly conforms to s. 125.07 (4) (a)
4 or (b), the court shall order one or any combination of the following penalties:

5 (b) For a violation committed within 12 months of a previous violation, a
6 forfeiture of not less than \$300 nor more than \$500, ~~suspension of the juvenile's~~
7 ~~operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's
8 participation in a supervised work program or other community service work under
9 s. 938.34 (5g). In addition to any penalty imposed under this paragraph, the court
10 shall suspend the juvenile's operating privilege as provided in s. 343.30 (6) (b) 2.

11 **SECTION 73.** 938.344 (2b) (c) of the statutes, as affected by 1997 Wisconsin Act
12 84, is amended to read:

13 938.344 (2b) (c) For a violation committed within 12 months of 2 or more
14 previous violations, a forfeiture of \$500, ~~suspension of the juvenile's operating~~
15 ~~privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a
16 supervised work program or other community service work under s. 938.34 (5g). In
17 addition to any penalty imposed under this paragraph, the court shall suspend the
18 juvenile's operating privilege as provided in s. 343.30 (6) (b) 3.

19 **SECTION 74.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and
20 amended to read:

21 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
22 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
23 under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may~~ shall be followed
24 regarding the immobilization or if the court orders the seizure and forfeiture of a

1 motor vehicle owned by the person who committed the offense ~~or the equipping of a~~
2 ~~motor vehicle owned by the person with an ignition interlock device.~~

3 SECTION 75. 940.09 (1d) (a) of the statutes is created to read:

4 940.09 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c)
5 or (d) has one or more convictions, suspensions or revocations, as counted under s.
6 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the
7 equipping of a motor vehicle owned by the person with an ignition interlock device
8 or the immobilization of the motor vehicle.

9 SECTION 76. 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and
10 amended to read:

11 940.25 (1d) (b) If the person who committed the offense under sub. (1) (a), (b),
12 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
13 under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may~~ shall be followed
14 ~~regarding the immobilization or if the court orders the seizure and forfeiture of a~~
15 ~~motor vehicle owned by the person who committed the offense or the equipping of a~~
16 ~~motor vehicle owned by the person with an ignition interlock device.~~

17 SECTION 77. 940.25 (1d) (a) of the statutes is created to read:

18 940.25 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c)
19 or (d) has one or more prior convictions, suspensions or revocations, as counted under
20 s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the
21 the equipping of a motor vehicle owned by the person with an ignition interlock
22 device or the immobilization of the motor vehicle.

23 *auto ref. "KA"*
SECTION 78. Nonstatutory provisions.

24 (1) The departments of corrections, health and family services and
25 transportation shall jointly study and evaluate the desirability of using treatment

1 programs and other alternatives to incarceration as a way to reduce the length of
2 incarceration or the need for incarceration of persons convicted of a 2nd or
3 subsequent violation of operating a motor vehicle while under the influence on an
4 intoxicant, controlled substance or other drug. The departments shall consult with
5 the counties regarding this study and evaluation. No later than the first day of the
6 9th month beginning after the effective date of this subsection, the departments shall
7 jointly submit a report to the legislature in the manner provided under section
8 13.172 (2) of the statutes that contains the conclusions of the departments' study and
9 evaluation and any recommendations concerning implementation of the
10 conclusions.

11 (2) The department of transportation and the department of health and family
12 services shall study jointly and evaluate the effectiveness of using ignition interlock
13 devices and vehicle immobilization as methods of reducing the prevalence of drunk
14 driving and the recidivism of drunk-driving offenders. The departments shall
15 consult with the counties, the law enforcement agencies, the courts and the providers
16 of services to alcohol abusers regarding this study and evaluation. No later than the
17 first day of the 24th month beginning after the effective date of section 343.301 of the
18 statutes, as created in this act, the department shall submit a report to the
19 legislature in the manner provided under section 13.172 (2) of the statutes that
20 contains the conclusions of the departments' study and evaluation and any
21 recommendations concerning implementation of the conclusions.

22 **SECTION 79. Initial applicability.**

23 (1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections
24 125.07 (4) (bs), (c) and (e) 2. (intro.), 343.30 (6) (b), 346.93 (2g), 346.95 (2) and 938.344
25 (2) (intro.) and (c), (2b) and (2d) (c) of the statutes first applies to violations committed

✓
Insert
29-21
"KM" from
pp. 30-31
Auto ref. "KC"
(intro.), 2., 3. and 4.
Intro.), 1. and 3.
(intro.), 2., 3. and 4.

110.02(3)

SECTION 80. Appropriation changes.

move before IA sections